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10/561,887	12/21/2005	Martin Hottner	FA/256	1077

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EXAMINER

O HERN, BRENT T

ART UNIT	PAPER NUMBER
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1772

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/21/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/561,887

Applicant(s)

HOTTNER, MARTIN

Examiner

Brent T. O'Hern

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-69 is/are pending in the application.
- 4a) Of the above claim(s) 1-14, 23, 30-33, 54 and 66 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-22, 24-29, 34-53, 55-65 and 67-69 is/are rejected.
- 7) ☒ Claim(s) 16, 18, 36, 40, 59, 60 and 67 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date Jun 15 2006
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election of Group II and Species A, directed to the tape reinforcement, in the reply filed on 6 February 2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

After further consideration the Examiner has decided to examine both Species A and Species C (lamine reinforcement) of Group II. The claims directed to the elected subject matter are 15-22, 24-29, 34-53, 55-65 and 67-69.

The requirement is still deemed proper and is therefore made FINAL.

### *Claim Objections*

2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

**Misnumbered claims 76-77** have been renumbered 59-60.

3. Claim 16 is objected to because of the following informalities: claim #16 depends on **non-elected claim #1**. Appropriate correction is required.

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4. Claim 18 is objected to because of the following informalities: claim #18 states “**equal to than the**”. This appears to be a typo since it does not make sense. Appropriate correction is required.
5. Claim #36 and #40 are objected to because of the following informalities: the claims state “**polyamide 6.6**” and “**polyamide 6**”, in both claims, respectively, instead of there full unabbreviated chemical names. Appropriate correction is required.
6. Claim #67 is objected to because of the following informalities: the claim states “**a water entry pressure of 0.007 bar or greater**”. This appears to be a typo. Perhaps Applicant meant 0.07. If this is not a typo then Applicant has added new matter and the Specification is objected to and the claim is thus rejected under 35 USC 112, para. 1. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 43-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 43-45 recite the limitation “**functional layer (50)**” in line #1 of all claims. There is **insufficient antecedent basis** for this limitation in the claim.

Clarification and/or correction is required.

**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

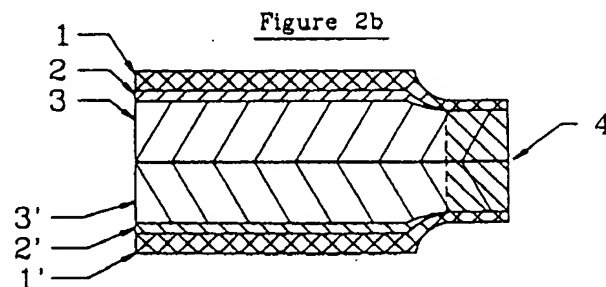
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 15-20, 24-25, 29, 34-35 and 41-46 are rejected under 35

U.S.C. 102(b) as being anticipated by Sakhpara (EP 0 410 292).

Regarding claim 15, Sakhpara ('292) teaches a welded seam between at least two pieces of waterproof laminate (See col. 2, ll. 31-51 and FIG-2b, entire FIG.).



The phrase "**said seam is obtainable by the method according to claim 1**" in claim 15, lines 2-3 are **process limitations** in a product claim and hence not given any patentable weight since patentability of a product does not depend on its method of production (see MPEP § 2173.05(p)).

Regarding claim 16, Sakhpara ('292) teaches an article comprising a plurality of pieces of waterproof laminate and having at least one welded seam between at least two of the pieces (See col. 2, ll. 31-51 and FIG-2b, entire FIG.).

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The phrase “**produced by the method according to claim 1**” in claim 16, lines 2-3 are **process limitations** in a product claim and hence not given any patentable weight since patentability of a product does not depend on its method of production (*see MPEP § 2173.05(p)*).

Regarding claims 17, 29 and 41-42, Sakhpara ('292) teaches a combination of at least a first laminate having a first edge and a second laminate having a second edge joined together at a welded seam in an edge area (See *col. 2, ll. 31-51 and FIG-2b, entire FIG.*), each of the laminates comprising: a first layer comprising a waterproof functional layer (*col. 2, ll. 31-33 and FIG-2b, #1*) and a second textile layer laminated to the first layer and comprising at least a first component and a second component (*See col. 2, ll. 31-51 and FIG-2b #2 and #3.*), the first component being stable to a first temperature and the second component melting at a second temperature (*FIG-2b and col. 4, ll. 22-24*), wherein the first temperature is higher than the second temperature (*col. 4, ll. 22-24 and col. 3, ll. 24-57*), and the first edge is oriented to the second edge in a substantially edge-to-edge butted orientation (*col. 2, ll. 41-43 and FIG-2b*).

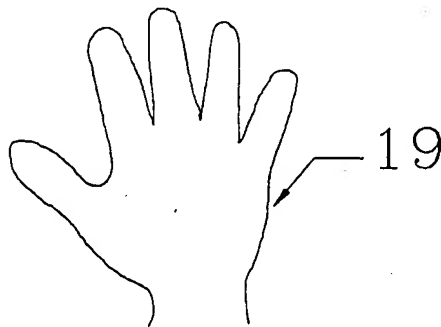
The phrase “**wherein the seam (80) is formed by the melted second component and the non-melted first component of the textile layers of each laminate**” in claim 17, lines 11-12, “**wherein the second component is melted using ultrasonic energy**” in claim 41, lines 1-2 and “**wherein the seam (80) is formed continuously**” in claim 42, lines 1-2 are process limitations in a product claim and hence not given any patentable weight since patentability of a product does not depend on its method of production (*see MPEP § 2173:05(p)*).

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The phrase **“wherein the seam (80) has a width less than 0.25 cm”** in claim 29, lines 1-2 is interpreted as non-limiting since the width includes a width of 0 cm.

Regarding claim 18, Sakhpara ('292) teaches wherein each of the laminates has a laminate-thickness and the welded seam has a seam-thickness wherein the seam-thickness is substantially equal to the laminate-thickness (See *FIG-2b wherein the seam is thinner than the combined top and bottom layers, thus substantially equal.*).

Regarding claim 19, Sakhpara ('292) teaches wherein the welded seam is substantially non-linear (See *FIG-1, wherein the outline of the glove curves.*).



Regarding claim 20, Sakhpara ('292) teaches wherein the welded seam (80) is in the form of at least one curvature to form a three-dimensional combination (See *FIG-1, wherein the outline of the glove curves.*).

Regarding claim 24, Sakhpara ('292) teaches wherein the second component is meltable at a temperature in the range of from 160 °C to 230 °C (*col. 4, ll. 22-23 and col. 3, ll. 24-57*).

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Regarding claim 25, Sakhpara ('292) teaches wherein the first component is stable to a temperature of at least 180 °C (*FIG-2b, #2 and col. 4, ll. 22-24*).

Regarding claim 34, Sakhpara ('292) teaches wherein the second layer is a knitted, woven or non-woven textile layer (*col. 3, ll. 40-42*).

Regarding claim 35, Sakhpara ('292) teaches wherein the first component is a polyester or a polyamide (*col. 4, ll. 7-8 and col. 3, ll. 55-57*).

Regarding claim 43, Sakhpara ('292) teaches wherein the functional layer is a membrane or a film (*col. 2, ll. 31-33 and FIG-2b, #1*).

Regarding claim 44, Sakhpara ('292) teaches wherein the functional layer is selected from the group of materials consisting of polyesters or polyamides, polyolefins (*col. 3, l. 56*).

Regarding claim 45, Sakhpara ('292) teaches wherein the functional layer is made from expanded polytetrafluoroethylene (PTFE) (*col. 3, ll. 24-26*).

Regarding claim 46, Sakhpara ('292) teaches articles of clothing made from the combination (*col. 3, ll. 24-26*).

### ***Claim Rejections - 35 USC § 103***

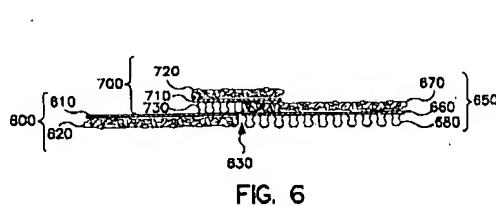
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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9. Claims 17, 21-22, 26-29, 36-42, 48-53, 55-56 and 58-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodwin (WO 99/16620) in view of Sakhpara (EP 0 410 292).

Regarding claims 17, 29 and 41-42, Goodwin ('620) teaches a combination of at least a first laminate having a first edge and a second laminate having a second edge joined together at a seam in an edge area (*FIG-6, #600 and #650 joined together at #630*), each of the laminates comprising: a first layer comprising a waterproof functional layer (*p. 5, ll. 3-4*) and a second textile layer laminated to the first layer and comprising at least a first component and a second component (*FIG-6, multi-layers of #600 and #650*), the first component being stable to a first temperature and the second component melting at a second temperature (*p. 7, ll. 4-8*), wherein the first temperature is higher than the second temperature (*p. 7, ll. 4-8*), and the first edge is oriented to the second edge in a substantially edge-to-edge butted orientation (*FIG-6, #600 and #650 joined together at #630*), however, fails to expressly disclose joined together at a welded seam in an edge area.



However, Sakhpara ('292) teaches joined together at a welded seam in an edge area (*See col. 2, ll. 31-51 and FIG-2b, entire FIG.*) for the purpose of providing a waterproof article (*col. 2, ll. 31-40*).

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Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide a welded seam as taught by Sakhpara ('292) in Goodwin ('620) in order to provide a waterproof article.

Regarding claims 21 and 52, Goodwin ('620) teaches wherein the welded seam is reinforced by at least one reinforcement (*FIG-6, #600*).

The phrase **"wherein said at least one reinforcement comprises a seam tape having a width of 10 mm or less"** in claim 52, lines 1-2 is interpreted as non-limiting since the width includes a width of 0 cm.

Regarding claim 22, Goodwin ('620) teaches wherein the reinforcement is selected from the group of materials comprising tapes (*FIG-6, #600*).

Regarding claim 26, Goodwin ('620) teaches wherein the difference between the first temperature and the second temperature is at least 20 °C (*p. 7, ll. 7-8*).

Regarding claims 27-28, Goodwin ('620) teaches wherein the seam (80) withstands a water entry pressure of at least 0.07/(0.13) bar (*p. 6, ll. 32-34*).

Regarding claim 36, Goodwin ('620) teaches wherein the first component is polyamide (*p. 22, l. 7 and p. 16, Table #1*).

Regarding claim 37, Goodwin ('620) teaches wherein the second component is a thermoplastic (*p. 16, Table #1*).

Regarding claim 38, Goodwin ('620) teaches wherein the second component is selected from the group of thermoplastics comprising co-polyester, polyamide, co-polyamide and polyolefin (*p. 16, Table #1*).

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Regarding claim 39, Goodwin ('620) teaches wherein the second component is a polypropylene (*p. 16, Table #1*).

Regarding claim 40, Goodwin ('620) teaches wherein the second component is a polyamide (*p. 16, Table #1*).

Regarding claims 48 and 58, Goodwin ('620) teaches wherein the at least one reinforcement comprises a seam tape comprising a textile tape (*FIG-6, #700 and p. 21, ll. 9-19*).

Regarding claims 49 and 59, Goodwin ('620) teaches wherein the at least one reinforcement comprises a seam tape comprising a laminate tape (*FIG-6, #700 and p. 21, ll. 9-19*).

Regarding claims 50 and 60, Goodwin ('620) teaches wherein the at least one reinforcement comprises a seam tape comprising a waterproof tape (*FIG-6, #700 and p. 20, ll. 14-22*).

Regarding claims 51 and 61, Goodwin ('620) teaches wherein the at least one reinforcement comprises a seam tape comprising a thermoplastic film (*FIG-6, #700 and p. 20, ll. 14-22*).

Regarding claim 53, Goodwin ('620) teaches wherein the at least one reinforcement comprises a seam tape comprising a laminate of a woven bi-component textile layer, a functional layer and a knitted bi-component textile backer layer (*FIG-6, #700*).

Regarding claims 55-56 and 62, Goodwin ('620) teaches an article comprising at least a first laminate and a second laminate joined together at a seam (*FIG-6, #600 and #650 joined together at #630*), each of the laminates

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comprising a first layer comprising a waterproof functional layer and a second textile layer laminated to the first layer (*p. 5, ll. 3-4 and FIG-6, multi-layers of #600 and #650*), and wherein the seam is reinforced by at least one reinforcement comprising a seam tape oriented over the seam and contacts a position of the first laminate and the second laminate (*FIG-6, #600 and #650 joined together at #630*), however, fails to expressly disclose wherein a second laminate joined together at a welded seam.

However, Sakhpara ('292) teaches joined together at a welded seam in an edge area (*See col. 2, ll. 31-51 and FIG-2b, entire FIG.*) for the purpose of providing a waterproof article (*col. 2, ll. 31-40*).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide a welded seam as taught by Sakhpara ('292) in Goodwin ('620) in order to provide a waterproof article.

The phrases **"wherein the welded seam has a width of 0.25 mm or less"** in claim 56, lines 1-2 and **"wherein the seam tape has a width of about 10 mm or less"** in claim 62, lines 1-2 are interpreted as non-limiting since the width includes a width of 0 cm.

Regarding claim 63, Goodwin ('620) teaches an article wherein the at least one reinforcement comprises a seam tape comprising a laminate of a woven bi-component textile layer, a functional layer and a knitted bi-component textile backer layer (*FIG-6, #600*).

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Regarding claims 64-65, Goodwin ('620) teaches the combination discussed above, however, fails to expressly disclose wherein the seam tape has a width of about 8/(6) mm.

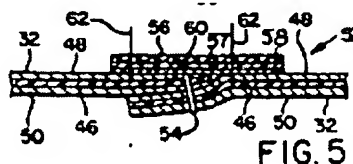
However, Goodwin ('620) teaches a seam tape that is greater than the width of the seam (*FIG-6, wherein the tape, #700, is wider than the seam, #630*) for the purpose of joining multiple pieces of material (*p. 21, ll. 9-19*).

Therefore, it would have been obvious to one having ordinary skill in the art at the time Applicant's invention was made to provide a seam tape with the above dimensions in order to join the pieces of material together.

10. Claims 47 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodwin (WO 99/16620) in view of Sakhpura (EP 0 410 292) and Sacre (Re. 34,890).

Goodwin ('620) teaches the combination discussed above, however, fails to expressly disclose wherein the at least one reinforcement comprises a seam tape comprising an adhesive tape.

However, Sacre ('890) teaches wherein the seam tape comprises an adhesive tape (*FIG-5, #58 and col. 4, ll. 27-61*) for the purpose of bonding the materials together (*col. 4, ll. 27-61 and FIG-5*).



Therefore, it would have been obvious to one having ordinary skill in the art at the time Applicant's invention was made to provide a seam tape comprising

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an adhesive tape, as taught by Sacre ('890) in Goodwin ('620) in order to bond the materials together.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent T. O'Hern whose telephone number is (571) 272-0496. The examiner can normally be reached on M-F, 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-2172. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-

9199 (IN USA OR CANADA) or 571-272-1000.

BTO

Brent T O'Hern  
Examiner  
Art Unit 1772  
March 13, 2007

 3/14/07  
NASSER AHMAD  
PRIMARY EXAMINER